

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 27, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Jackson, and Laslovich, excused. Quorum present.

BILLS AND JOURNALS:

4/27/2009

Correctly printed: **HB 158, HB 213, HB 644, HJ 32.**

Correctly enrolled: **SB 119, SB 418, SB 498, SB 465, SJR 19, SJ 30.**

Examined by the sponsor and found to be correct: **SB 119, SB 235, SB 290, SB 400, SB 418, SB 446, SB 465, SB 489, SJR 19, SJR 30, SJR 39.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the seventy-seventh, seventy-eighth, seventy-ninth, eightieth, eighty-first, and eighty-second legislative days, find the same to be correct

Senator Curtiss, Chair

MESSAGES FROM THE OTHER HOUSE

Free Conference Committee Report No. 1 adopted:

4/24/2009

SB 322, introduced by Curtiss

SJR 30, introduced by Zinke

Conference Committee Report No. 1 adopted:

4/27/2009

SB 418, introduced by Branae

SB 371 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free Conference Committee** to meet with a like committee from the Senate to confer on **SB 371**:

4/27/2009

Representative Hunter, Vice Chair

Representative B. Beck

Representative P. Beck

Representative Milburn

HB 676 - The House failed to concur in the Senate amendments to **HB 676** and authorized the Speaker to appoint the following **Free Conference Committee** to meet with a like committee from the Senate to confer on **HB 676**:

4/27/2009

Representative Sesso, Vice Chair

Representative Hawk

Representative Hiner

Representative Jones

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

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HB 11, introduced by Sesso

Senate joint resolution concurred in and returned to the Senate:

4/27/2009

SJR 19, introduced by J. Peterson

Senator Gillan present at this time.

Senator Jackson present at this time.

MOTIONS

Senator Gebhardt moved that **SB 510** be placed on Second Reading this day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 43

Nays: Cooney, Erickson, Kaufmann, Moss, Wanzenried, Windy Boy.

Total 6

Absent or not voting: None.

Total 0

Excused: Laslovich.

Total 1

Senator Laslovich present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 213 - Senator Zinke moved **HB 213** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 43

Nays: Balyeat, Barkus, Brenden, Hinkle, Jackson, Tutvedt, Mr. President.

Total 7

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Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 644 - Senator Gallus moved **HB 644** be concurred in. Motion carried as follows:

Yeas: Bales, Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report **not** adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Peterson moved the Senate recess until 1:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

All members present, except Senator Gallus, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Esp, Chairman):
HJR 32, be concurred in. Report adopted.

4/27/2009

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 371**
Report No. 1, April 27, 2009

Mr. President and Mr. Speaker:

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We, your Free Conference Committee met and considered **Senate Bill 371** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted as follows:

BE ADOPTED WITH NO RECOMMENDATION

And, recommend that **Senate Bill 371** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Perry, Chair
Laslovich
Steinbeisser
Steinbeisser

For the House:

B. Beck
Milburn

FREE CONFERENCE COMMITTEE
on **House Bill 5**
Report No. 1, April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 5** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 5** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 11 through line 12.

Following: "COSTS;"

Strike: remainder of line 11 through line 12 in their entirety

2. Page 3, line 19.

Strike: in both places "2,000,000 2,000,000 [LRBP Fund and Total]"

Insert: in both places "1,150,000 1,150,000 [LRBP Fund and Total]"

3. Page 5, line 21.

Insert: "500,000 [Authority only]"

Strike: "1,600,000 [Total]"

Insert: "2,100,000 [Total]"

4. Page 6, line 1.

Following: page 5, line 21

Insert: "Authority only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds."

5. Page 6, line 4.

Following: line 3

Insert: "UM-Helena College of Technology Project Completion 850,000 850,000 [LRBP Fund and Total]"

6. Page 8, line 1.

Strike: in both places "1,525,000 [State Special Revenue and Total]"

Insert: in both places "1,041,400 [State Special Revenue and Total]"

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For the House:

Hollenbaugh, Vice Chair
Ankney
Getz

For the Senate:

Barkus, Chairman
Debby Barrett
Williams

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 510 - House Amendments - Senator Gebhardt moved House amendments to **SB 510** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Moss, J. Tropila, M. Tropila, Wanzenried.
Total 10

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 11 - Governor's Amendments - Senator Brueggeman moved Governor's amendments to **HB 11** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

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HB 123 - Governor's Amendments - Senator Brueggeman moved Governor's amendments to **HB 123 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Cooney, Erickson, Esp, Gillan, Moss, Schmidt, Stewart-Peregoy, Wanzenried, Williams.
Total 9

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 52, as amended by the Governor, concurred in as follows:

Yeas: Bales, Barrett, Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Balyeat, Barkus, Black, R. Brown, T. Brown, Esp, Essmann, Hinkle, Jackson, Juneau, Stewart-Peregoy.
Total 11

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 158 concurred in as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 35

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Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Esp, Gebhardt, Hinkle, Jackson, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 14

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 171, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 42

Nays: Balyeat, R. Brown, Erickson, Juneau, Ripley, Shockley, Windy Boy.

Total 7

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 263, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Juneau.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SPECIAL ORDERS OF THE DAY

Senator Dan McGee gave his farewell address to the Senate.

Senator Gallus present at this time.

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Senator McGee assumed the chair.

President Robert Story gave his farewell address to the Senate.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Peterson moved the Senate recess until 4:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 4:00 p.m.

Roll Call. All members present, except Gillan and Jackson, excused. Quorum present

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 658**
Report No. 1, April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 658** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted as follows:

BE ADOPTED WITH NO RECOMMENDATION
And, recommend that **House Bill 658** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 10.

Following: "PROPERTY;"

Insert: "REVISING THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM; REVISING THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM;"

2. Title, page 1, line 20 through line 22.

Strike: "EXEMPTING" on line 20 through "SUBDIVISIONS;" on line 22

3. Title, page 2, line 6.

Following: "TAXPAYERS;"

Insert: "PROVIDING AN APPROPRIATION;"

4. Title, page 2, line 7.

Following: "~~15-6-211;~~"

Insert: "15-6-193,"

5. Page 3, line 3 through line 7.

Strike: "any person" on line 3 through "both" on line 7

Insert: "one or more qualified claimants:

(i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established in subsection (2)(b)(i); or

(ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds established

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in subsection (2)(b)(i)"

6. Page 3, line 30.

Following: "based on"

Insert: "the"

Following: "income"

Insert: "for the preceding calendar year of the owner or owners who occupied the property as their primary residence"

7. Page 4, line 28.

Insert: "(4) (a) As used in this section, "qualified claimants" means one or more owners who:

(i) occupied the residence as their primary residence for more than 7 months during the preceding calendar year;

(ii) had combined income for the preceding calendar year that does not exceed the threshold provided in subsection (2)(b); and

(iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year for which the assistance is claimed.

(b) For the purposes of subsection (1)(c), total household income is the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total income as it would have been calculated under this subsection (4)(b) if the claimant had been required to file a return.

(c) The combined income of two or more owners who are qualified claimants:

(i) may not exceed the married couple and head of household thresholds provided in subsection (2)(b); and

(ii) determines the amount of tax reduction under subsection (2)(b)."

8. Page 9, line 18.

Insert: "**Section 4.** Section 15-6-193, MCA, is amended to read:

"15-6-193. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles that begin after December 31, 2008, the rate of taxation of ~~class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a)~~ qualified residences is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31 of the last year of the previous revaluation cycle unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply for revaluation cycles beginning after December 31, 2008:

(a) (i) ~~The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal.~~

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~~(ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous reappraisal cycle.~~

~~(iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current reappraisal cycle.~~

~~(iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.~~

~~(v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.~~

~~(b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to the property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.~~

~~(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.~~

~~(d) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.~~

~~(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 24% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.~~

~~(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 30% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.~~

~~(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated such that the total increase in taxable value over the reappraisal cycle is 36% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.~~

(a) The change in taxable value before reappraisal is the 2008 tax year value adjusted for any new construction or destruction that occurred in the 2008 tax year. The taxable value before reappraisal for the 2009 tax year and subsequent years is the same as the 2008 tax year value if no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes are made to the property during 2008 or subsequent tax years.

(b) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301. The taxable value after reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247.

(c) The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301 times the tax year 2008 mill levy applied to the property. The tax liability after

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reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247 times the tax year 2008 mill levy applied to the property. The tax year 2008 mill levy is the total of all mills applied to the property for fiscal year 2009.

(d) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(e) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2009, the tax rate is 0.03269 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03546 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.03823 times the value before reappraisal divided by the 2011 phase-in value.

(iv) For tax year 2012, the tax rate is 0.04115 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.04374 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.04648 times the value before reappraisal divided by the 2014 phase-in value.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2009, the tax rate is 0.03301 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03612 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.03925 times the value before reappraisal divided by the 2011 phase-in value.

(iv) For tax year 2012, the tax rate is 0.04257 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.0456 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.04873 times the value before reappraisal divided by the 2014 phase-in value.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2009, the tax rate is 0.03332 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03678 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.04028 times the value before reappraisal divided by the 2011 phase-in value.

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(iv) For tax year 2012, the tax rate is 0.04399 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.04739 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.0598 times the value before reappraisal divided by the 2014 phase-in value.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section:

(a) "entity" means:

~~(a)(i)~~ a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

~~(b)(ii)~~ an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person; and

(b) "qualified residence" means any class four residential dwelling in Montana that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling actually occupied by itself or in combination with another class four residential dwelling in Montana for at least 7 months a year."

Renumber: subsequent sections

9. Page 10, line 10 through line 11.

Strike: section 5 in its entirety

Renumber: subsequent sections

10. Page 25, line 8 through line 10.

Strike: section 15 in its entirety

Insert: "NEW SECTION. Section 15. Appropriation -- contingency. (1) There is appropriated \$1,587,053 from the general fund to the department of revenue for the biennium ending June 30, 2011, for the administration of [this act].

(2) If there is a specific appropriation for the administration of the mitigation of reappraisal pursuant to [this act] in House Bill No. 2, then the appropriation made in subsection (1) is void."

Insert: "COORDINATION SECTION. Section 16. Coordination instruction. If both Senate Bill No. 115 and [this act] are passed and approved, then [section 1 of Senate Bill No. 115], amending 15-6-134, is void."

Renumber: subsequent sections

For the House:

Blasdel
Lake

For the Senate:

Essmann, Chairman
Gebhardt
Gillan

MOTIONS

Senator Peterson moved to appoint a Conference Committee on the Governor's amendments to **HB 123**. Motion carried. President Story appointed Senators Brueggeman (Chair), T. Brown, and Hansen.

Senator Jackson present at this time.

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Senator Gillan present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 371 - Free Conference Committee Report No. 1 - Senator Perry moved the Free Conference Committee report to **SB 371** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Cooney, Erickson, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Moss, Squires, M. Tropila, Wanzenried, Williams.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 5 - Free Conference Committee Report No. 1 - Senator Barkus moved the Free Conference Committee report to **HB 5** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Esp moved consideration of **HB 645** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

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HJR 32 - Senator Erickson moved **HJR 32** be concurred in. Motion carried as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, McGee, Ripley, Steinbeisser.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senate at ease.

FREE CONFERENCE COMMITTEE
on **House Bill 645**
Report No. 2 April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 645** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 645** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 12.

Following: "ACCOUNT;"

Insert: "INCREASING THE ELIGIBILITY FOR CASH ASSISTANCE BENEFITS FROM THE TANF BLOCK GRANT;"

2. Title, page 1, line 19.

Following: "PROGRAM;"

Insert: "PROVIDING A FUND TRANSFER FROM THE STATE GENERAL FUND TO THE SENIOR CITIZEN AND PERSONS WITH DISABILITIES TRANSPORTATION SERVICES ACCOUNT;"

3. Title, page 1, line 21.

Following: "~~53-4-1115,~~"

Insert: "53-4-212,"

4. Page 3, line 20.

Strike: "43"

Insert: "44"

Strike: "44"

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Insert: "45"

5. Page 3, line 21.

Strike: "45"

Insert: "46"

6. Page 4, line 13.

Strike: "43"

Insert: "44"

7. Page 4, line 14.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

8. Page 4, line 19.

Strike: "43"

Insert: "44"

Strike: "44"

Insert: "45"

9. Page 4, line 20.

Strike: "45"

Insert: "46"

10. Page 5, line 11.

Strike: "43"

Insert: "44"

11. Page 5, line 12.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

12. Page 6, line 16.

Strike: "43"

Insert: "44"

13. Page 6, line 17.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

14. Page 7, line 11.

Strike: "43"

Insert: "44"

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15. Page 7, line 12.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

16. Page 8, line 8.

Strike: "43"

Insert: "44"

17. Page 8, line 9.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

18. Page 8, line 21.

Strike: "43"

Insert: "44"

19. Page 9, line 1.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

20. Page 11, line 9.

Strike: "43"

Insert: "44"

21. Page 12, line 4.

Strike: "43"

Insert: "44"

22. Page 13, line 1.

Strike: "43"

Insert: "44"

23. Page 13, line 18.

Strike: "43"

Insert: "44"

24. Page 14, line 18.

Strike: "81"

Insert: "85"

25. Page 15, line 15.

Strike: "81"

Insert: "85"

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26. Page 20, line 2.

Strike: "52"

Insert: "53"

27. Page 21, line 6.

Strike: "42(1)"

Insert: "43(1)"

28. Page 21, line 7.

Strike: "43"

Insert: "44"

29. Page 21, line 12.

Strike: "42(1)"

Insert: "43(1)"

Strike: "43"

Insert: "44"

30. Page 24, line 14.

Strike: "81"

Insert: "85"

31. Page 24, line 17.

Strike: "81"

Insert: "85"

32. Page 27, line 16.

Strike: "43"

Insert: "44"

33. Page 34.

Following: line 10

Insert: "**Section 32.** Section 53-4-212, MCA, is amended to read:

"53-4-212. Department to make rules. (1) The department shall make rules and take action as necessary or desirable for the administration of public assistance programs.

(2) ~~The~~ Subject to subsection (3), the department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives, including cooperation with assessments, the number of hours of participation required for each month, specific activities required to address employment barriers, and other terms of performance;

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(f) eligibility for and terms and conditions of child-care assistance for financial assistance recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) eligibility criteria and participation requirements for nonfinancial assistance recipients;

(h) terms of ineligibility or sanctions against a specified caretaker relative or other family member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

(i) requirements, if any, for participation in the employment and training demonstration project;

(j) eligibility for and terms and conditions of extended medical assistance benefits;

(k) reporting requirements;

(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the rules or requirements of a public assistance program;

(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

(n) individuals who must be included as members of an assistance unit;

(o) categories of aliens who may receive assistance, if any;

(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

(r) special eligibility or participation requirements applicable to teenage parents, if any;

(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued;

(t) any random drug testing or reporting requirements for persons who are required to comply with the conditions provided under 53-4-231(3) and graduated sanctions that may include terms of ineligibility for violations of conditions of supervision or treatment requirements. The department may enter into agreements with the department of corrections regarding testing and reporting on offenders under the supervision of the department of corrections.

(u) approved educational programs, appropriate educational courses of study, employee assessment instruments, and administration of the Montana parents as scholars program provided for in 53-4-209.

(3) The department shall raise the eligibility standard for individuals receiving cash assistance benefits from the federal TANF block grant from at or below 30% of the 2002 federal poverty level to at or below 30% of the 2009 federal poverty level for the period from July 1, 2009, through September 30, 2010. Beginning October 1, 2010, the department shall reduce the eligibility standard to 30% of the 2006 federal poverty level. If the TANF caseload increases to a point that expenditures jeopardize the TANF block grant, the department, after consultation with the legislative finance committee, may lower the eligibility standard as provided in subsection (2)."

Renumber: subsequent sections

34. Page 44, line 18.

Strike: "42"

Insert: "43"

35. Page 45, line 1.

Strike: "43"

Insert: "44"

36. Page 45, line 19.

Strike: "43"

Insert: "44"

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37. Page 48, line 19.

Strike: "43"

Insert: "44"

38. Page 48, line 20.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

39. Page 63, line 8.

Strike: "81"

Insert: "85"

40. Page 63, lines 17 through 19.

Following: "MUST RECEIVE \$5,000 PLUS" on line 17

Strike: remainder of line 17 through line 19 in their entirety

Insert: "a proportional share of the funds remaining from the \$10 million. The proportional share is calculated by allocating 50% of the remaining funds to each city and town based upon the distribution formula in 15-70-101(2)(c) and 50% of the remaining funds to each city and town based upon the percentage that the population of each city or town bears to the total population of all cities and towns."

41. Page 63, line 20.

Following: "USED FOR"

Insert: ": (a) the following county projects: Beaverhead, county courthouse repair; Big Horn, Little Horn road reconstruction; Blaine, county building improvements; Broadwater, county road chip seal; Carbon, West Fork road expansion; Carter, gravel crushing; Cascade, county building energy performance contract; Chouteau, county road repair and reconstruction; Custer, county road and buildings, including Silo Loop road, Pine Hills improvement, and county building repair and remodel; Daniels, county road gravel screening/crushing; Dawson, county building repair/remodel/construction; Deer Lodge, street light renovation; Fallon, county road and parks shop building; Fergus, Scott Crossing bridge replacement; Flathead, Mennonite Church and Creston roads construction; Gallatin, fairgrounds restroom construction and replacement; Garfield, county building heating/cooling system replacement; Glacier, Glacier County jail/detention center; Golden Valley, fire hall and roads; Granite, Metesch Lane bridge replacement; Hill, Sheppard and Bulhook roads pavement overlay; Jefferson, Boulder south campus sewer replacement; Judith Basin, replace Arrow Creek and Judith River bridge; Lake, South Valley Creek bridge replacement, Skyline bridge repair, and courthouse weatherization; Lewis and Clark, Lewis and Clark County fairgrounds plaza; Liberty, Liberty senior center; Lincoln, Tobacco Valley industrial park infrastructure improvements and Kootenai business park improvements; Madison, Madison County office renovation and bridge improvement projects; McCone, geothermal heat loop courthouse retrofit; Meagher, county building energy efficiency and handicap accessibility updates; Mineral, Mineral County jail and courthouse restoration and repair; Missoula, Big Flat road reconstruction; Musselshell, Goffena bridge replacement; Park, 9th Street bridge replacement; Petroleum, courthouse windows, Dovetail Creek crossing, and Petroleum County road upgrade; Phillips, courthouse parking lot and sidewalk projects; Pondera, Pondera County community and senior center remodel; Powder River, Powder River County fire hall; Powell, energy efficient windows and boiler for county courthouse; Prairie, county fairgrounds grandstand replacement and Terry park facilities renovation; Ravalli, Ambrose Creek road pavement preservation; Richland, Spring Lake road reconstruction; Roosevelt, energy efficient courthouse windows project; Rosebud, Ingomar water and sewer project and Forsyth library elevator project; Sanders, high bridge reconstruction; Sheridan, county road gravel and engineering, county road gravel crushing, Plentywood bypass route; Silver Bow, county road repair and maintenance; Stillwater, county courthouse and bridge; Sweet Grass, Pioneer medical center renovation; Teton, county nursing home

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and county road gravel; Toole, energy efficient lighting for Toole County hospital; Treasure, county building renovations; Valley, Valley County detention center addition; Wheatland, county road shop and Harlowtown fire hall; Wibaux, county fairgrounds exhibit building; Yellowstone, Clapper Flat and Vandaveer roads and courthouse remodel; and

(b) the following city and town projects: Alberton, street repairs and paving; Anaconda-Deer Lodge, street light renovation; Bainville, Simard Park improvements -- sprinkler systems and sidewalks; Baker, storm drain installation on South Montana 7 and Secondary 322; Bearcreek, town hall renovation and repairs; Belgrade, street intersection reconstruction and sidewalk extension; Belt, replace concrete water storage tank; Big Sandy, sewer main replacement and resurface Johannes Avenue; Big Timber, Anderson Street asphalt overlay project; Billings, reconstruction of Alkali Creek Road; Boulder, water system treatment project; Bozeman, water system treatment project, water reclamation facility -- water treatment plant design, recreation facility improvements, sidewalks and restroom upgrades in parks, and debris removal; Bridger, street and sidewalk repairs; Broadus, addition to city hall for police department and sewer lagoon repairs; Broadview, general repairs and maintenance; Brockton, wastewater system repairs and street and alley repairs; Browning, new fire hall; Butte-Silver Bow, road repairs and maintenance; Cascade, one block sewer main replacement; Chester, chip seal town streets; Chinook, city hall repair and improvements and paint armory building; Choteau, city hall-fire station remodel and replace unit heaters in Pavilion building;

Circle, purchase street patcher equipment and sewer treatment plant; Clyde Park, construction of Lathrop Street; Colstrip, Orchard lift station replacement; Columbia Falls, street construction and improvements; Columbus, replace curb, gutter, and sidewalk on Pike Avenue; Conrad, replace hydrants and valves and overlay Dakota Street; Culbertson, architecture design of new fire hall; Cut Bank, final engineering and design work for Railroad Street; Darby, water system improvement project; Deer Lodge, phase 1 sewer rehabilitation collection system; Denton, water-sewer upgrades, building repairs, and street repairs; Dillon, Glendale street project; Dodson, street repairs; Drummond, street repairs and park maintenance; Dutton, city park improvements; East Helena, renovate city hall; Ekalaka, bridge and street repair; Ennis, town hall expansion and remodel project; Eureka, repair main arterial road; Fairfield, design and erect new fire hall, televise sewer lines, and replace hydrants; Fairview, park bathrooms renovation; Flaxville, water storage tank repairs; Forsyth, water storage tank and water works repairs; Fort Benton, chip seal city streets, U.S. highway 87 repairs, and airport runway improvements; Fort Peck, replace aging fire hydrants; Froid, water storage reservoir replacement; Fromberg, street and sidewalk repairs; Geraldine, main sewer line extension; Glasgow, rehabilitate southside lift station; Glendive, street reconstruction; Grass Range, water, sewer, and street repairs; Great Falls, West Bank street and right-of-way improvement and civic center roof repair; Hamilton, Tenth street reconstruction; Hardin, new fire hall; Harlem, city hall renovation and weatherization and street maintenance; Harlowton, replace sidewalks and install handicapped curbs; Havre, new lift station and recoat concrete water tank; Helena, Centennial Park trail system construction; Hingham, sewer project, street and sidewalk repairs, and fire hydrants; Hobson, extend water to boulevard on Main Street; Hot Springs, remodel fire hall and repair streets; Hysham, overlay town streets; Ismay, general repairs and maintenance; Joliet, sewer and water improvements; Jordan, improve existing streets; Judith Gap, Fourth Avenue street improvements; Kalispell, street projects; Kevin, drainage, culvert, and road repairs; Laurel, open ditch mitigation near middle school; Lavina, install new water system; Lewistown, chip seal streets; Libby, sewer main extension to Cabinet Heights; Lima, regravels streets and park shelter; Livingston, safety and building repairs to Sacajawea Park and repairs to sidewalks and streets; Lodge Grass, sewer lagoon; Malta, water and sewer line repairs and maintenance and street paving and repairs; Manhattan, sidewalk extensions, repairs, and maintenance; Medicine Lake, sewer lagoon maintenance, water tower, and waterworks repairs; Melstone, install fire hydrants, water and sewer installation to community center, and sidewalks, curbs, and gutters; Miles City, stormwater system sediment removal and debris removal; Missoula, ADA sidewalk ramps and North Higgins streetscape; Moore, street repairs and capital improvements; Nashua, sewer and water main replacements; Neihart, streets and capital improvements; Opheim, water system and general repairs; Outlook, connect water system to new well; Philipsburg, replace water and sewer lines; Pinesdale, capital improvements and repairs; Plains, city hall renovations including ADA bathrooms and furnace and air conditioning; Plentywood, engineering study of wastewater treatment system, replace sidewalk at city hall and add gutter system, and chip seal streets; Plevna, culvert and drainage improvements and chip seal streets; Polson, Riverside water main replacement; Poplar, street repairs after water line installation; Red Lodge, roof repairs on city hall and police station; Rexford, community

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center siding and repairs; Richey, road repairs and maintenance; Ronan, repair and overlay Third Avenue Northwest; Roundup, curbs, gutters, and sidewalks on Second Avenue East; Ryegate, city park improvements; Saco, street repairs and maintenance; Saint Ignatius, street paving and pedestrian path and other park repairs; Scobey, weatherize city hall; Shelby, street repairs; Sheridan, street repairs and maintenance; Sidney, Twenty-Second Avenue Northwest reconstruction; Stanford, street intersection improvements and replacements; Stevensville, repair and replace roof on town hall complex building; Sunburst, resurface streets, ADA curbs and gutters, and other street repair; Superior, water construction phase II, street repairs, and renovate park buildings; Terry, park improvements; Thompson Falls, street repairs and replace water meters with radio read meters; Three Forks, pave streets and equip parks and recreation facilities; Townsend, Broadway sidewalk replacement; Troy, city hall restoration; Twin Bridges, public walking path connecting parks; Valier, install water tank, new water meters, and water lines and trunks; Virginia City, remodel and relocate city hall; Walkerville, street improvements; West Yellowstone, wastewater improvements; Westby, resurface streets; White Sulphur Springs, patch and repair city streets; Whitefish, new emergency services building; Whitehall, new ambulance building, wastewater improvements, and debris removal; Wibaux, remodel park bathroom as handicapped accessible; Winifred, drainage projects; Winnett, street drainage improvements; Wolf Point, gate valve and hydrant replacement; or

(c)"

42. Page 64, line 1.

Strike: "(A)"

Insert: "(i)"

Renumber: subsequent subsections

43. Page 64.

Following: line 8

Insert: "(3) The governing body of a county, city, or town may choose to propose to the department of commerce an alternate project to those listed in subsections (2)(a) and (2)(b) based on the criteria in subsection (2)(c). If the alternate project meets the criteria in subsection (2)(c), the department shall approve the project."

Renumber: subsequent subsection

44. Page 64.

Following: line 11

Insert: "(5) A recipient of funds under this section must expend the funds by September 30, 2010. Unexpended funds must revert to the state and be deposited in the state general fund. The department of commerce shall disburse the funds to recipients as quickly as possible."

45. Page 65, lines 2 and 3.

Following: "(5)" on line 2

Strike: remainder of line 2 through "PROGRAM." on line 3

Following: "START"

Insert: "energy program"

46. Page 65, line 5.

Strike: "81"

Insert: "85"

47. Page 66, line 8.

Strike: "MORTGAGE LOAN ASSISTANCE"

Insert: "Welcome home loan"

48. Page 66, line 14.

Strike: "59"

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Insert: "60"

49. Page 66, line 16.

Insert: "NEW SECTION. **Section 62. Fund transfer.** There is transferred \$300,000 from the state general fund to the senior citizen and persons with disabilities transportation services account."

"NEW SECTION. Section 63. Allocation and distribution of increased state support for schools. The superintendent of public instruction shall allocate and distribute the funds appropriated in [section 85] for Increase State Support for Schools With Education Stabilization Funds as follows:

(1) for fiscal year 2010:

(a) recalculate the basic entitlement and per-ANB entitlement by multiplying the basic entitlement and per-ANB entitlement for fiscal year 2010 in 20-9-306 by 1.02;

(b) calculate the BASE budget, maximum general fund budget, direct state aid, and guaranteed tax base aid for each school district using the recalculated basic and per-ANB entitlements; and

(c) distribute K-12 BASE aid to school districts in accordance with the payment schedule in 20-9-344 from the appropriations in House Bill No. 2 and [this act]; and

(2) for fiscal year 2011:

(a) recalculate the basic entitlement and per-ANB entitlement by multiplying the basic entitlement and per-ANB entitlement for fiscal year 2011 in 20-9-306 by 1.02;

(b) calculate the BASE budget, maximum general fund budget, direct state aid, and guaranteed tax base aid for each school district using the recalculated basic and per-ANB entitlements; and

(c) distribute K-12 BASE aid to school districts in accordance with the payment schedule in 20-9-344 from the appropriations in House Bill No. 2 and [this act].

Renumber: subsequent sections

50. Page 70, lines 5 and 6.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

51. Page 70, line 8.

Strike: subsection (i) in its entirety

Renumber: subsequent subsections

52. Page 70, line 9.

Strike: "tribal"

Insert: "Indian country"

53. Page 70.

Following: line 9

Insert: "(ii) high-performance computing in the amount of \$2,000,000, then the general fund appropriation for that purpose in House Bill No. 2 is void;"

Renumber: subsequent subsections

54. Page 70, line 11.

Following: "(iv) the"

Insert: "Montana"

55. Page 70, line 17.

Strike: "THAT PURPOSE"

Insert: "BASE aid"

56. Page 70, line 18.

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Strike: "\$12,763,569"

Insert: "\$14,613,477"

Strike: "\$13,216,482"

Insert: "\$25,779,699"

Following: "2011;"

Strike: "AND"

57. Page 70, line 20.

Strike: "\$31,605,482"

Insert: "\$29,762,223"

Strike: "\$31,605,482"

Insert: "\$29,762,224"

Following: "FY 2011"

Insert: "; and

(d) to the office of the commissioner of higher education for Replace 6-Mill Levy Revenue Shortfall With Federal General Stabilization Funds, then the state special revenue fund appropriation in House Bill No. 2 is reduced by \$1,447,296 in fiscal year 2010 and \$1,046,625 in fiscal year 2011"

58. Page 71, line 1.

Strike: "the amount of the difference between the amount specified in subsection (1) and"

59. Page 71, line 2.

Strike: "81"

Insert: "85"

60. Page 71, line 8.

Following: "TOTAL"

Strike: "ALLOCATIONS"

Insert: "appropriations"

61. Page 71, line 10.

Strike: "\$20"

Insert: "\$17"

62. Page 71, line 21 through page 72, line 1.

Strike: "the amount" on page 71, line 21 through "and" on page 72, line 1

Strike: "81"

Insert: "85"

63. Page 72, lines 2 and 3.

Strike: subsection (4) in its entirety

64. Page 72, line 6.

Strike: subsection (a) in its entirety

ReNUMBER: subsequent subsections

65. Page 72, line 9.

Strike: "\$2.5"

Insert: "\$3.5"

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66. Page 72, line 15.

Following: "amount of"

Strike: "a fund transfer or"

67. Page 72, lines 16 and 17.

Following: "corresponding" on line 16

Strike: "transfer or"

Strike: "of the difference" on page 72, line 16 through "transferred or" on page 72, line 17

Strike: "81"

Insert: "85"

68. Page 73, line 5.

Strike: "81"

Insert: "85"

69. Page 73, line 12.

Strike: "81"

Insert: "85"

70. Page 73, line 19.

Strike: "81"

Insert: "85"

71. Page 74, line 2.

Strike: "33"

Insert: "34"

72. Page 74, line 3.

Strike: "33"

Insert: "34"

73. Page 74, line 4.

Strike: "52" in both places

Insert: "53" in both places

74. Page 74, line 5.

Strike: "54"

Insert: "55"

Strike: "55"

Insert: "56"

75. Page 74, line 6.

Strike: "54"

Insert: "55"

Strike: "55"

Insert: "56"

76. Page 74, line 7.

Strike: "42"

Insert: "43"

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Strike: "43"
Insert: "44"

77. Page 74, line 8.
Strike: "42"
Insert: "43"
Strike: "43"
Insert: "44"

78. Page 74, line 9.
Strike: "44"
Insert: "45"
Strike: "45"
Insert: "46"

79. Page 74, line 10.
Strike: "44"
Insert: "45"
Strike: "45"
Insert: "46"

80. Page 74, line 11.
Strike: "50" in both places
Insert: "51" in both places
Strike: "51" in both places
Insert: "52" in both places

81. Page 74, line 20.
Strike: "35"
Insert: "36"
Strike: "37"
Insert: "38"

82. Page 75, lines 2 and 3.
Following: "27" on line 2
Strike: remainder of line 2 through "60" on line 3
Insert: "31 through 33, 35 through 42, 57, 58, 60, and 61"

83. Page 75, line 5.
Strike: "81"
Insert: "85"

84. Page 75, line 4.
Insert: "NEW SECTION. **Section 83. Voided appropriation -- use -- appropriation.** If a general fund appropriation contained in [section 85] is voided or vetoed, then the amount of the voided or vetoed general fund appropriation is appropriated to the department of commerce. The department shall use 25% of the appropriation for distribution to counties pursuant to [section 57(1)(a)], 25% of the appropriation for distribution to cities and towns pursuant to [section 57(1)(b)], 25% of the appropriation for distribution to tribal governments pursuant to [section 57(1)], and 25% for distribution to school districts pursuant to [section 57(4)]."
Renumber: subsequent sections

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85. Page 75, line 9.

Following: "2011."

Insert: "The office of budget and program planning is authorized to transfer up to \$2 million of the appropriations, authority, or both in this section between the general fund and the federal special revenue fund for the purpose of making adjustments to maintain necessary maintenance of effort and other requirements of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the use of both the state general fund and the federal state fiscal stabilization funds."

86. Page A-1.

Following: line 1

Insert: "LEGISLATIVE BRANCH (1104)

1. Legislative Committees and Activities (21)

117,084 121,520" [General fund FY 10 and FY 11]

"Total 117,084 121,520" [General fund FY 10 and FY 11]

If Senate Bill No. 100 is not passed and approved, the general fund appropriation in the amount of \$117,084 in fiscal year 2010 and in the amount of \$121,520 in fiscal year 2011 for Legislative Committees and Activities is void."

87. Page A-1, line 13 through page A-2, line 8.

Strike: Page A-1, line 13 through page A-2, line 8 in their entirety

88. Page A-2, line 11.

Following: "a."

Insert: "Montana"

89. Page A-2, line 16.

Strike: "Tribal"

Insert: "Indian Country"

90. Page A-3.

Following: line 15

Insert: "h. High-Performance Computing

1,000,000 1,000,000" [general fund FY 10 and FY 11]

"i. New Worker Training Program 655,698 655,698"
[general fund in FY 2010 and FY 2011]

91. Page A-5, line 4.

Strike: "23,000,000 22,000,000" [General fund & State special revenue FY 10]

Insert: "25,000,000 20,000,000" [General fund & State special revenue FY 10]

92. Page A-5, lines 5 through 7.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

93. Page A-5, line 12.

Strike: "1,500,000 1,500,000" [general fund FY 10 and FY 11]

Insert: "2,000,000 2,000,000" [general fund FY 10 and FY 11]

94. Page A-6, line 11.

Strike: "3,536,800 11,497,200" [state special revenue FY 10 and FY 11]

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Insert: "34,000" [state special revenue FY 11]

95. Page A-8.

Following: line 3

Insert: "c. Quick Start Energy Grants 14,950,000" [state special revenue FY 10]

96. Page A-9.

Strike: lines 2 and 3 in their entirety

Insert: "The line item for New Worker Training is to provide training funds for businesses to train and educate both new and existing employees, the purpose of which is the retention and creation of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy. The line item for New Worker Training is intended to be implemented using a framework similar to that established under the Primary Sector Business Workforce Training Act provided for in Title 39, chapter 11, except that the New Worker Training appropriation line item is to be used to train and educate both new and existing employees.

The line item and general fund appropriation in the amount of \$1,311,396 for New Worker Training is contingent upon passage and approval of Senate Bill No. 100. If Senate Bill No. 100 is not passed and approved, the appropriation for New Worker Training is void.

If Senate Bill No. 100 is not passed and approved, there is an appropriation to the Community Development Division in the amount of \$4.5 million general fund for fiscal year 2010 for the provision of grants by the coal board established in 2-15-1821."

97. Page A-9, line 11.

Strike: "56"

Insert: "57"

Strike: "57"

Insert: "58"

98. Page A-10.

Following: line 9

Insert: "The amount of \$1 million of the general fund appropriation for Historic Preservation Competitive Grants is contingent upon passage and approval of Senate Bill No. 100."

99. Page B-4, line 8.

Strike: "1,000,000 1,000,000" [General fund FY 10 & FY 11]

Insert: "1,000,000 1,000,000" [Federal funds FY 10 & FY 11]

100. Page B-4.

Following: line 10

Insert: "d. HB 173 -- Implementing National Public Health Standards (Restricted)
200,000 200,000" [general fund FY10 FY11]

101. Page B-4, line 13.

Strike: "375,000 375,000" [general fund FY10 and FY11]

Insert: "357,000 357,000" [general fund FY10 and FY11]

102. Page B-6, line 12.

Strike: "1,500,000 1,500,000" [General fund FY 10 and FY 11]

Insert: "58,919 58,918 " [General fund FY 10 and FY 11]

"1,441,081 1,441,082" [Federal funds FY 10 and FY 11]

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103. Page B-6, line 16.

Following: "RESTRICTED"

Insert: "/Biennial"

104. Page B-7.

Strike: line 2

Insert: "25,000" [general fund FY 10]

"b. Implement HB 130 (Biennial/Restricted)

475,000" [General fund FY 10]

105. Page B-8.

Following: line 6

Insert: "HB 173 -- Implementing National Public Health Standards may be used only to make grants to local public health agencies. The line item and general fund appropriation in the amount of \$400,000 over the biennium for HB 173 -- Implementing National Public Health Standards is contingent upon passage and approval of Senate Bill No. 100. If Senate Bill No. 100 is not passed and approved, the appropriation for HB 173 -- Implementing National Public Health Standards is void."

106. Page B-9, line 15.

Strike: "AND"

Insert: "or"

107. Page B-9, following line 15.

Insert: "Implement HB 130 is contingent upon passage and approval of House Bill No. 130. If House Bill No. 130 is not passed and approved, Implement HB 130 must be used for matching grants for mental health crisis centers."

108. Page C-5, line 12.

Strike: "2,500,000 2,500,000" [federal special revenue FY10

and FY11]

Insert: "4,250,000 4,250,000" [federal special revenue FY10

and FY11]

109. Page D-1, line 6.

Strike: "125,000 125,000" [general fund FY 10 and FY 11]

Insert: "250,000 250,000" [general fund FY 10 and FY 11]

110. Page D-1.

Following: line 10

Insert: "The amount of \$250,000 of the general fund appropriation for Self-Help Law Program is contingent upon passage and approval of Senate Bill No. 100."

111. Page D-4, line 2.

Strike: "73,225 73,620" [General fund FY 10 & FY 11]

Insert: "73,225 73,620" [Federal funds FY 10 & FY 11]

112. Page D-4, line 5.

Strike: "997,547 1,002,781" [General fund FY 10 & FY 11]

Insert: "997,547 1,002,781" [Federal funds FY 10 & FY 11]

113. Page D-4, line 8.

Strike: "282,040 283,346" [General fund FY 10 & FY 11]

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Insert: "282,040 283,346" [Federal funds FY 10 & FY 11]

114. Page E-1.

Following: line 14

Insert: "e. Montana Learning Center (Restricted)
50,000 [general fund FY10]"

115. Page E-3, line 7.

Strike: "12,763,509 13,216,482" [federal special revenue FY10 FY11]

Insert: "14,613,477 25,779,699" [federal special revenue FY10 FY11]

116. Page E-3, line 9.

Strike: "10,724,262 21,713,034" [federal special revenue FY10 FY11]

Insert: "10,717,552 10,993,075" [federal special revenue FY10 FY11]

117. Page E-4.

Following: line 3

Insert: "Montana Learning Center funding may be used only for deferred maintenance on facilities or for making energy efficiency improvements at the Montana learning center."

118. Page E-4, line 12.

Strike: "16,507" [general fund FY10]

Insert: "34,507 18,000" [general fund FY10 and FY11]

119. Page E-7, line 4.

Strike: "31,605,482 31,605,482" [federal special revenue FY10 FY11]

Insert: "29,762,223 29,762,224" [federal special revenue FY10 FY11]

120. Page E-9, line 10.

Following: "ASSISTANCE"

Strike: "WILL"

Insert: "must"

121. Page E-9, line 11.

Following: "FOLLOWS:"

Strike: remainder of line 11

Insert: "\$400,000 to Flathead Valley community college, \$700,000 to Miles community college, and \$700,000 to Dawson community college."

122. Page E-9.

Strike: lines 14 and 15 in their entirety

123. Page F-1, line 4.

Following: "Program"

Insert: "Additional"

Following: "TRANSFER"

Strike: "Allocation"

124. Page F-2, line 4.

Following: "TRANSFER"

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Insert: "and"

125. Page F-2, line 9.

Following: "TRANSFER"

Strike: "Allocation"

126. Page F-3, line 8.

Strike: "1,250,000 1,250,000" [general fund FY 10 and FY 11]

Insert: "1,750,000 1,750,000" [general fund FY 10 and FY 11]

127. Page F-3, line 9.

Following: "Montana"

Insert: "(Department of Administration)"

128. Page F-4, lines 2 through 4.

Strike: line 2 through line 4 in their entirety

129. Page F-4, line 13.

Strike: "21,500,000 21,500,000" [General fund FY 10 and FY 11]

Insert: "35,034,000" [General fund FY 10]

130. Page F-6.

Following: line 8

Insert: "The amount of \$1 million of the general fund appropriation for Enterprise System Services Center Equipment is contingent upon passage and approval of Senate Bill No. 100."

For the House:

Sesso, Vice Chair

Hiner

McNutt

Morgan

For the Senate:

Esp, Chair

Keane

J. Peterson

FREE CONFERENCE COMMITTEE

on House Bill 676

Report No. 1 April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 676** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 676** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 11 through line 15.

Following: "ALTERNATIVES;" on line 11

Strike: remainder of line 11 through "ALL;" on line 15

2. Title, page 1, lines 16 and 17.

Strike: "MODIFYING" on line 16 through "ACCOUNT;" on line 17

Strike: "A 1 PERCENT"

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Insert: "AN"

3. Title, page 1, line 22 through line 23.

Following: "PLAN;" on line 22

Strike: remainder of line 22 through "CONTRACEPTION;" on line 23

Insert: "REQUIRING NOTICE TO ENROLLEES OF RESTRICTIONS ON ACCESS TO HEALTH CARE PROVIDERS; PROVIDING THAT CONTRACTS TO IMPLEMENT THE CHILDREN'S HEALTH INSURANCE PROGRAM MAY NOT RESTRICT ACCESS TO HEALTH CARE PROVIDERS;"

4. Title, page 2, line 1 through line 2.

Following: "TAXES;" on line 1

Strike: remainder of line 1 through "PROGRAM;" on line 2

Insert: "PROVIDING CONDITIONS FOR THE SELECTION OF THE VENDOR FOR THE VEHICLE INSURANCE VERIFICATION SYSTEM;"

5. Title, page 2, line 4.

Strike: "53-4-1004,"

Following: "53-4-1005,"

Insert: "53-4-1007,"

6. Title, page 2, line 5.

Strike: "53-4-1115,"

7. Title, page 2, line 7.

Strike: "A"

Strike: "DATE"

Insert: "DATES"

8. Page 2, lines 11 through 23.

Strike: section 1 in its entirety

Renumber: subsequent sections

9. Page 9, lines 11 and 12.

Following: "Act" on line 11

Strike: remainder of line 11 through "AUTHORITY" on line 12

10. Page 10, lines 24 and 25.

Following: "Act" on line 24

Strike: remainder of line 24 through "AUTHORITY" on line 25

11. Page 22, lines 7 through 13.

Strike: section 15 in its entirety

12. Page 23, line 13.

Strike: "\$248,546"

Insert: "\$253,468"

13. Page 23, line 17.

Strike: "\$22,362"

Insert: "\$22,805"

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14. Page 23, line 22.

Strike: "\$22,362"

Insert: "\$22,805"

15. Page 23, line 26.

Strike: "\$63,331"

Insert: "\$64,585"

16. Page 24, line 20.

Strike: "\$6,158"

Insert: "\$6,280"

17. Page 24, line 25.

Strike: "\$4,811"

Insert: "\$4,906"

18. Page 24, line 30.

Strike: "\$4,811"

Insert: "\$4,906"

19. Page 25, line 4.

Strike: "\$6,158"

Insert: "\$6,280"

20. Page 26, line 22.

Strike: "The"

Insert: "Except as provided in subsection (3)(b), the"

21. Page 26.

Following: line 26

Insert: "(b) The commissioner shall deposit 16.67% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115."

Renumber: subsequent subsection

22. Page 30, line 13 through page 31, line 2.

Strike: section 20 in its entirety

Renumber: subsequent sections

23. Page 31, line 22.

Following: "~~program~~:"

Insert: "(3) The department is specifically prohibited from providing payment for birth control contraceptives under this program.

(4) The department shall notify enrollees of any restrictions on access to health care providers, of any restrictions on the availability of services by out-of-state providers, and of the methodology for an out-of-state provider to be an eligible provider."

24. Page 31.

Following: line 23

Insert: "**Section 19.** Section 53-4-1007, MCA, is amended to read:

"53-4-1007. (Temporary) Department may contract for services. (1) The department of public health and

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human services may administer the program directly or contract with insurance companies or other entities to provide services for a set monthly or yearly fee based on the number of participants in the program and the types of services provided or based on a fee for service as established by the department.

(2) The department of public health and human services may contract for a health care service based on a fee for service when the department does not contract for a health care service through an insurance plan, a health maintenance organization, or a managed care plan. A contract entered into or renewed on or after [the effective date of this act] may not limit enrollee access to providers who are willing to provide services at the rates provided for under the program. In operating the program and providing health services, the department may:

(a) pay providers on a fee-for-service basis in a self-funded program and contract with an insurance company, third-party administrator, or other entity to provide administrative services, including but not limited to processing and payment of claims with program funds;

(b) purchase health coverage for eligible children from an insurance company or other entity through premiums, capitated payments, or other appropriate methods;

(c) purchase health coverage as provided in subsection (2)(b) for some types of health services and contract directly with providers for other types of health services on a fee-for-service basis; or

(d) pay providers on a fee-for-service basis and directly provide administrative services in a self-funded program.

(3) If the department of public health and human services contracts with an insurance company or other entity to administer the program as provided in subsection (2)(b) or (2)(c), not more than 12% of the contract payment may be used for administrative expenses, including:

(a) direct and indirect expenses as specified in 33-22-1514;

(b) risk charges; and

(c) any applicable assessments, fees, and taxes.

(4) If the department operates the program by providing administrative services under subsection (2)(a), (2)(c), or (2)(d), the department's administrative expense may not exceed the lesser of 10% of total program expenses or the applicable federal limitation, excluding costs for federally required audits.

(5) (a) An insurance company or other entity that contracts with the department for a fully insured contract as provided in subsection (2)(b) shall calculate the surplus account balance at the end of each contract year and may retain an amount equal to 50% of the risk charge allowed under the contract. The remainder of the surplus balance must be deposited in the state special revenue account provided for in 53-4-1012.

(b) For the purposes of this subsection (5):

(i) "risk charge" means the percentage of the administrative expense allowed in the contract for assuming the risk;

(ii) "surplus account balance" means funds that remain after all claims and all administrative expenses have been paid for a claim period. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 7, Ch. 565, L. 2005; sec. 5, Ch. 129, L. 2007.)"

Renumber: subsequent sections

25. Page 32, lines 7 through 25.

Strike: section 23 in its entirety

Renumber: subsequent sections

26. Page 38.

Following: line 16

Insert: "NEW SECTION. Section 29. Vehicle insurance verification system -- vendor requirement. In order to reduce state risk, a vendor who successfully bids on the vehicle insurance verification system project must have installed in at least two other states a substantially similar system, which must be in production."

Renumber: subsequent sections

27. Page 38, lines 21 through 26.

Following: "instruction." on line 21

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Strike: remainder of line 21 through "(3)" on line 26

Strike: "28"

Insert: "25"

28. Page 38, line 27.

Strike: "28"

Insert: "25"

29. Page 38.

Following: line 28

Insert: "COORDINATION SECTION. Section 32. Coordination instruction. If House Bill No. 152 and [this act] are both passed and approved, then [section 22] of House Bill No. 152 must be amended as follows:

"NEW SECTION. Section 22. Applicability. [Section 18] applies to rental payments beginning January 1, ~~2011~~ 2012."

Renumber: subsequent sections

30. Page 39, line 1.

Strike: "8"

Insert: "7"

31. Page 39, line 3.

Strike: "16"

Insert: "14"

32. Page 39, line 6.

Following: "Termination."

Insert: "(1)"

Strike: "10"

Insert: "9"

33. Page 39, line 7.

Strike: "12"

Insert: "11"

34. Page 39.

Following: line 7

Insert: "(2) [Section 15] terminates June 30, 2013."

For the House:

Sesso, Vice Chair

Hawk

Hiner

Jones

For the Senate:

Bales, Chair

Lewis

Schmidt

April 27, 2009

The Honorable Robert Story, Jr.

President of the Senate

State Capitol

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Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 476, "**AN ACT REVISING THE CRIME OF THEFT; RAISING THE MONETARY THRESHOLD FOR FELONY THEFT AND REVISING PENALTIES; AND AMENDING SECTIONS 45-2-101, 45-6-301, 45-6-309, 45-6-311, AND 45-6-313, MCA.**"

Senate Bill 476 increases from \$1,000 to \$2,500 the threshold for classifying certain property crimes as felony rather than misdemeanor. My primary concern with the bill lies in the fact that the increase in the threshold applies to some but not all property crimes. Specifically, it applies to the crimes of theft, failure to return rented or leased personal property, unlawful use of a computer, and medicaid fraud. In contrast, it does *not* apply to the crimes of criminal mischief, issuing a bad check, identity theft, unauthorized acquisition of food stamps, and other property crimes.

It does not make sense to me that the crime of stealing \$1500, or even \$2,499, from a corner grocery store would be classified as a misdemeanor, while the crime of writing a bad check for \$1500 to the same grocery store would be classified as a felony. Similarly, it does not make sense to me that the threshold for the crime of felony medicaid fraud would be raised to \$2,500 (a crime that is typically committed by doctors), while the crime of unauthorized acquisition of food stamps valued in excess of \$1,000 would constitute a felony (typically committed by poor people).

My amendments to Senate Bill 476, therefore, change the threshold for the classification of property crimes as misdemeanor, as opposed to felony, to all property crimes, not only the four listed in the bill that was presented to me. Additionally, a consequence of increasing the threshold for what constitutes a felony will be additional work in the justice courts. Therefore, I lowered the threshold that was contained in the bill presented to me from \$2,500 to \$1,500, so as not to overburden the justice courts with these changes. These changes should also assist by making the payment of restitution within the six month period, by those committing misdemeanors, a more realistic prospect.

Finally, consistent with my proposed amendments, I note that the last time the legislature amended the threshold determining whether the crime of theft is a misdemeanor or is a felony was 1999, and at that time, in addition to amending the threshold as to the crime of theft, the legislature also amended the threshold for the other property crimes covered by my amendment. I also note that in 1999, when the legislature amended the threshold distinguishing a misdemeanor from a felony property crime, the amendment was to increase the threshold, with respect to all crimes covered by the legislation, from \$500 to \$1,000. As in 1999, my amendment would entail a \$500 increase in the threshold, from \$1,000 to \$1,500.

I have discussed my amendments with my friend, Senator Shockley, the sponsor of Senate Bill 476, who indicates his support.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 476

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Reference Copy

By Request of the Governor
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 27, 2009

1. Title, line 5.

Following: "THEFT"

Insert: "AND OTHER OFFENSES AGAINST PROPERTY"

2. Title, line 6.

Following: "THEFT"

Insert: "AND OTHER OFFENSES AGAINST PROPERTY"

3. Title, line 7.

Following: "45-2-101," on line 6

Insert: "45-6-101, 45-6-103, 45-6-104,"

Following: "45-6-311," on line 7

Strike: "AND"

Insert: "45-6-312,"

Following: "45-6-313,"

Insert: "45-6-316, 45-6-317, 45-6-325, 45-6-332, 45-6-341, AND 45-7-210,"

4. Page 10, line 12.

Strike: "\$2,500"

Insert: "\$1,500"

5. Page 10, line 13.

Strike: "\$2,500"

Insert: "\$1,500"

6. Page 10, line 22.

Following: line 21

Insert: "**Section 2.** Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

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(3) A person convicted of the offense of criminal mischief shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of ~~\$1,000~~ \$1,500, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss."

{Internal References to 45-6-101:

*13-35-206 x 45-8-405 x 85-7-1924 x 87-1-504x
87-1-505 x}*"

Insert: "Section 3. Section 45-6-103, MCA, is amended to read:

"45-6-103. Arson. (1) A person commits the offense of arson when, by means of fire or explosives, the person knowingly or purposely:

(a) damages or destroys a structure, vehicle, personal property (other than a vehicle) that exceeds ~~\$1,000~~ \$1,500 in value, crop, pasture, forest, or other real property that is property of another without consent;

(b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception; or

(c) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion.

(2) A person convicted of the offense of arson shall be imprisoned in the state prison for a term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both."

{Internal References to 45-6-103:

*40-15-102 x 41-5-206 x 45-8-405 x 46-16-226x
46-23-502 x}*"

Insert: "Section 4. Section 45-6-104, MCA, is amended to read:

"45-6-104. Desecration of capitol, place of worship, cemetery, or public memorial. (1) In this section, "capitol" means the Montana state capitol building and any permanent monuments on the capitol grounds.

(2) A person commits the offense of desecration if the person purposely:

(a) defiles or defaces the capitol or a place of worship, cemetery, or public memorial;

(b) places on or attaches to the capitol or a place of worship, cemetery, or public memorial any mark, design, or material not properly a part of the capitol, place of worship, cemetery, or public memorial; or

(c) injures, damages, or destroys any portion of the capitol or of a place of worship, cemetery, or public memorial.

(3) A person convicted of the offense of desecration shall be:

(a) incarcerated for any term not to exceed 6 months or be fined an amount not to exceed \$500, or both, if the damage does not exceed ~~\$1,000~~ \$1,500; or

(b) imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, if there is ~~\$1,000~~ \$1,500 or more of damage.

(4) With regard to the capitol, this section does not apply to displays or actions authorized by the department of administration."

{Internal References to 45-6-104: None.x}"

Renumber: subsequent sections

7. Page 12, line 9.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

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8. Page 12, line 11.

Strike: "\$2,500"

Insert: "\$1,500"

9. Page 12, line 12.

Strike: "\$2,500"

Insert: "\$1,500"

10. Page 12, line 15.

Strike: "\$2,500"

Insert: "\$1,500"

11. Page 13, line 9.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

12. Page 13, line 11.

Strike: "\$2,500"

Insert: "\$1,500"

13. Page 13, line 25.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

14. Page 13, line 27.

Strike: "\$2,500"

Insert: "\$1,500"

15. Page 14, line 1.

Following: page 13, line 30

Insert: "**Section 8.** Section 45-6-312, MCA, is amended to read:

"45-6-312. Unauthorized acquisition or transfer of food stamps. (1) A person commits the offense of unauthorized acquisition or transfer of food stamps if the person knowingly:

(a) acquires, purchases, possesses, or uses any food stamp or coupon that the person is not entitled to; or

(b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon to another person not entitled to receive or use it.

(2) A person convicted of an offense under this section shall be fined not more than ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for not more than 6 months, or both. A person convicted of an offense under this section, which offense is part of a common scheme or in which the value of the food stamps exceeds ~~\$1,000~~ \$1,500, shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 10 years, or both.

(3) As used in this section, "food stamp or coupon" means any stamp, coupon, or type of certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2011 through 2029, or any similar public assistance program."

{Internal References to 45-6-312: None.x}"

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Renumber: subsequent sections

16. Page 14, line 26.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

17. Page 14, line 28.

Strike: "\$2,500"

Insert: "\$1,500"

18. Page 14, line 29.

Strike: "\$2,500"

Insert: "\$1,500"

19. Page 15, line 2.

Strike: "\$2,500"

Insert: "\$1,500"

20. Page 15, line 22.

Following: line 21

Insert: "**Section 10.** Section 45-6-316, MCA, is amended to read:

"45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.

(2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.

(3) A person convicted of issuing a bad check shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender has engaged in issuing bad checks that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both."

{Internal References to 45-6-316:

27-1-717 x 44-1-1103 x}"

Insert: "**Section 11.** Section 45-6-317, MCA, is amended to read:

"45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when the person purposely or knowingly:

(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;

(b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;

(c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or

(d) obtains or attempts to obtain property, labor, or services by any of the following means:

(i) using a credit card that was issued to another without the other's consent;

(ii) using a credit card that has been revoked or canceled;

(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;

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- (iv) using the pretended number or description of a fictitious credit card;
- (v) using a credit card that has expired when the credit card clearly indicates the expiration date.

(2) A person convicted of the offense of deceptive practices shall be fined not to exceed ~~\$1,000~~ \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both."

{Internal References to 45-6-317:

33-1-1302 x 37-51-104 x 37-51-104 x 45-2-311 x}"

Insert: "Section 12. Section 45-6-325, MCA, is amended to read:

"45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud the person knowingly:

(a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition;

(b) issues or delivers the document or other object knowing it to have been thus made or altered;

(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or

(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated.

(4) A person convicted of the offense of forgery shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the forgery is part of a common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 20 years, or both."

{Internal References to 45-6-325:

45-8-405 x}"

Insert: "Section 13. Section 45-6-332, MCA, is amended to read:

"45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than ~~\$1,000~~ \$1,500 was gained or attempted to be gained shall be fined an amount not to exceed ~~\$1,000~~ \$1,500, imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of the offense of theft of identity if an economic benefit of ~~\$1,000~~ \$1,500 or more was gained or attempted to be gained shall be fined an amount not to exceed \$10,000, imprisoned in a state prison for a term not to exceed 10 years, or both.

(3) As used in this section, "personal identifying information" includes but is not limited to the name, date of birth, address, telephone number, driver's license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit

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history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant."

{Internal References to 45-6-332:

30-14-1701 x 30-14-1712 x 30-14-1728 x 31-3-132x
31-3-132 x 31-3-132 x 33-18-605 x 33-19-410x
46-24-218 x 46-24-219 x 46-24-220 x}"

Insert: "Section 14. Section 45-6-341, MCA, is amended to read:

"45-6-341. Money laundering. (1) A person commits the offense of money laundering if the person knowingly:

(a) receives or acquires the proceeds of, or engages in transactions involving proceeds of, any activity that is unlawful under the laws of the United States or the state in which the activity occurred;

(b) gives, sells, transfers, trades, invests, conceals, transports, or otherwise makes available anything of value that the person knows is intended to be used for the purpose of committing or furthering the commission of any activity that is unlawful under the laws of the United States or the state in which the committing or furthering of the commission of the activity occurs;

(c) directs, plans, organizes, initiates, finances, manages, supervises, or facilitates the transportation or transfer of proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred; or

(d) conducts a financial transaction involving proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds or to avoid a transaction reporting requirement under federal law.

(2) A person convicted of money laundering shall be fined an amount not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If the money laundering is part of a common scheme or if the value of the proceeds or item of value exceeds ~~\$1,000~~ \$1,500, the person shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both.

(3) (a) Upon conviction, the court shall order the following property possessed by a person convicted of money laundering to be forfeited:

(i) money, including digital currency, and raw materials, products, equipment of any kind, and any other personal property involved in the money laundering;

(ii) personal property constituting or derived from proceeds obtained directly or indirectly from the money laundering; and

(iii) real property, including any right, title, and interest in any lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to commit or facilitate the commission of, or that is derived from or maintained by the proceeds resulting from, the money laundering.

(b) The sheriff of the county where forfeited property is located shall sell the property at auction. The proceeds of the sale must be deposited in the state general fund.

(4) For purposes of this section, "digital currency" means money represented by digital information that is stored, spent, and transferred electronically by a person as part of a financial transaction."

{Internal References to 45-6-341: None.x}"

Insert: "Section 15. Section 45-7-210, MCA, is amended to read:

"45-7-210. False claim to public agency. (1) A person commits an offense under this section if the person knowingly presents for allowance, for payment, or for the purpose of concealing, avoiding, or decreasing an obligation to pay a false or fraudulent claim, bill, account, voucher, or writing to a public agency, public servant, or contractor authorized to allow or pay valid claims presented to a public agency.

(2) (a) Except as provided in subsection (2)(b), a person convicted of an offense under this section shall be fined not to exceed ~~\$1,000~~ \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) If a false or fraudulent claim is knowingly submitted as part of a common scheme or if the value of the claim or the aggregate value of one or more claims exceeds ~~\$1,000~~ \$1,500, a person convicted of an offense under this section shall be fined not to exceed \$10,000 or imprisoned in the state prison for a term not to exceed 10 years, or both."

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{Internal References to 45-7-210: None.x}"

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 645 - Free Conference Committee Report No. 1 - Senator Esp moved the Free Conference Committee report to **HB 645** be adopted. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Balyeat, Barkus, Brenden, R. Brown, T. Brown, Essmann, Hinkle, Jackson, Murphy, Peterson, Shockley, Squires, Wanzenried.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:30 a.m., Tuesday, April 28, 2009. Motion carried.

Senate adjourned at 5:28 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate